

### **REMARKS**

Claims 57-59, 62-66 and 74 were pending prior to this Response. By the present communication, no claims have been added or canceled, and claims 57 and 74 have been amended to recite Applicant's invention with greater particularity. Applicant respectfully requests entry of the amendments set forth in this response under 37 C.F.R. § 1.116. The amendments do not raise any issues of new matter and the amended claims do not present new issues requiring further consideration or search, being fully supported by the Specification and original claims. Accordingly, claims 57-59, 62-66 and 74 are currently pending in this application.

#### **Rejection Under 35 U.S.C. § 112, First Paragraph**

Applicants respectfully traverse the rejection of claims 57-59, 62-66 and 74 under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. Specifically, the Examiner alleges that amended base claims 57 and 74 to incorporate the phrase "consisting essentially of" in reference to the polypeptide sequences of SEQ ID NOs: 1-26 do not have verbatim support in the specification or claims as originally filed. In order to further prosecution and reduce the issues, Applicants have amended claims 57 and 74 to remove the term "essentially." Accordingly, withdrawal of the rejection is respectfully requested.

#### **Rejection Under 35 U.S.C. § 112, Second Paragraph**

Applicants respectfully traverse the rejection of claims 57-59 and 62-66 under 35 U.S.C. §112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the inclusion of the phrase "or more" allegedly makes base claim 57 ambiguous. In order to further prosecution and reduce the issues, Applicants have amended claims 57 to remove the phrase "any

one or more” and substitute “the group consisting” therefor. Accordingly, withdrawal of the rejection is respectfully requested.

**Rejection Under 35 U.S.C. § 102**

Applicants respectfully traverse the rejection of claims 57-59, 62-66 and 74 under 35 U.S.C. 102(b) as allegedly anticipated by Carson et al., U.S. Patent No. 5,773,570 (hereinafter “Carson”). A *prima facie* rejection of a claim for anticipation requires that the cited reference describe, explicitly or inherently, all of the elements of the rejected claim.

The Examiner alleges that Carson teaches a purified antigenic *E. coli* dnaJ protein that comprises SEQ ID NO: 3 and its use in a vaccine. Also allegedly disclosed are fusion proteins containing dnaJ that can be included in a pharmaceutical composition, which can include immunoadjuvants, such as Freund’s complete or incomplete adjuvant or cytokines.

As mentioned above, Applicants have amended claims 57 and 74 to remove the allegedly open-ended claim language, to limit to invention to substantially purified peptides consisting of selected amino acid sequences, and compositions comprising such. Consequently, Applicants submit that Carson does not describe, explicitly or inherently, all of the elements of the rejected claims. Accordingly, Applicants respectfully request withdrawal of the rejection.

In re Application of:  
Albani et al.  
Application No.: 10/001,938  
Filed: October 31, 2001  
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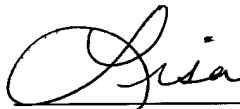
PATENT  
Attorney Docket No.: UCSD1360-1

**CONCLUSION**

In view of the amendments and above remarks, it is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application. No fees are due in connection with this submission, however if any other fees are due, please charge any fees, or make any credits, to Deposit Account No. 07-1896.

Respectfully submitted,

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